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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/981,665 11/05/97 CIPKOWSKI

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WASHINGTON DC 20036

HM21/0928

EXAMINER

GRUN, J

ART UNIT	PAPER NUMBER
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1641

DATE MAILED:

09/28/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/981,665</b>	Applicant(s) <b>CIPKOWSKI</b>
	Examiner <b>James L. Grun, Ph.D.</b>	Group Art Unit <b>1641</b>

Responsive to communication(s) filed on \_\_\_\_\_.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-15 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-15 are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1641

In the examination of international applications filed under the Patent Cooperation Treaty, PCT Rule 13.1 states that the "international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ('requirement of unity of invention')".

5 This application contains inventions or groups of inventions which are not so linked as to form a single inventive concept. Under PCT Rule 13 restriction to one of the following groups is required:

10 I. Claims 1-4, drawn to a urine sampling container and test kit comprising the container, classified in Class 128, subclasses 760 and 771, linked in technical relationship by the corresponding features of the sampling container.

II. Claims 5-15, drawn to an immunoassay test strip card, classified in Class 435, subclass 287.2.

The inventions listed as Groups I-II do not meet the requirements for Unity of Invention for the following reasons:

15 Unity of invention is fulfilled only when a group of inventions is linked in technical relationship by at least one corresponding technical feature (i.e. the inventions are not independent), wherein the corresponding technical feature(s) is(are) "special" under PCT Rule

Art Unit: 1641

13.2, i.e. a contribution over the prior art. The kit or the sampling container therein of Group I  
are not linked in technical relationship with the immunoassay test card of Group II, i.e. the  
inventions are independent and distinct. Although the immunoassay test card may be used with  
the urine sampling container in a test kit combination, the sampling container and test card share  
5 no discernible corresponding technical feature. The test card has separate utility such as by itself  
or with any other container. The sampling container has separate utility for specimen collection  
other than for use with an immunoassay test card. Further, the test kit as claimed is not linked in  
any technical relationship with the immunoassay test card because the test kit combination does  
not require the particulars (i.e. the technical features) of the immunoassay test strip card as  
10 claimed. Moreover, the test card does not define a “special” technical feature which is a  
contribution over the prior art (see e.g. Galloway et al (US Patent No. 5,403,551) or Lee-Own et  
al (US Patent No. 5,500,375) or Sun et al (US Patent No. 5,238,652) as applied in the  
prosecution of parent Application Serial No. 08/613,487 and incorporated by reference herein).

15 Applicant is advised that the response to this requirement to be complete must include an  
election of the invention to be examined even though the requirement be traversed.

Art Unit: 1641

**Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-305-3704. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Donald E. Adams, Ph.D., Supervisory Patent Examiner at Donald.Adams@uspto.gov or 703-308-0570. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to James L. Grun, Ph.D., Technology Center 1600, Group 1640, Art Unit 1641, whose telephone number is (703) 308-3980. The examiner can normally be reached on weekdays from 9 a.m. to 5 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James C. Housel, SPE, can be contacted at (703) 308-4027. The fax phone numbers for official communications to Group 1640 are (703) 305-3014 or (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

JLG

James L. Grun, Ph.D.  
September 25, 1998

*James C. Housel*  
JAMES C. HOUSEL 9/26/98  
SUPERVISORY PATENT EXAMINER



# RESTRICTION ELECTION FACSIMILE TRANSMISSION

DATE:

FROM/ATTORNEY:

FIRM:

PAGES, INCLUDING COVERSHEET:

PHONE NUMBER:

TO EXAMINER: JAMES L. GRUN, Ph.D.

ART UNIT: 1641

SERIAL NUMBER: 08/981,665

FAX/TELECOPIER NUMBER: (703) 305-3704

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